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GOVERNOR



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March 12, 2019

The Honorable Clarence K. Nishihara
Chair, Senate Committee of Public Safety
Hawaii State Senate
State Capitol, Room 214
415 South Beretania Street
Honolulu, Hawaii 96817

Dear Chair Nishihara,

This is in response to your letter dated February 12, 2019, raising concerns regarding the Law Enforcement Division, in particular the Sheriff Division. Your letter cites five areas of concern: 1) accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA), 2) communication, 3) misconduct investigations, 4) training, and 5) less than lethal equipment.

First, section 353C-9, enacted June 2011, requires the Department of Public Safety (PSD) to pursue and obtain accreditation for the Sheriff Division from the Commission on Accreditation for Law Enforcement Agencies (CALEA). There was no significant progress made toward CALEA accreditation under the prior Sheriff Division administrators. Based on that lack of significant progress, a lack of any progress in the area of Sheriff's law enforcement in-service training, and as part of a larger Sheriff Division management reorganization to more effectively, fairly, and responsibly run the Sheriff Division, I reassigned these individuals:

Patrick Lee, First Deputy/Acting First Deputy Sheriff:	03/04/11 – 07/24/15
Shawn Tsuha, Sheriff/Deputy Director, Law Enforcement:	03/04/11 – 01/02/17
Robin Nagamine, Sheriff:	06/03/13 – 08/25/15

In replacement, the Sheriff Division has been administered as follows:

Renee Sonobe Hong, Sheriff/Deputy Director, Law Enforcement	10/16/15 – present
Albert Cummings, III, Sheriff	06/16/17 – present

In January 2017, the Department had identified an on-staff member experienced in accreditation and assigned her to a CALEA work group focused on accreditation on July 1, 2017. Additionally, we assigned two additional staff members solely for the purpose of CALEA policy research and development. CALEA lists 182 standards for Law Enforcement and 160 standards for the Training Academy. Subsequent to these focused efforts, on June 8, 2018, Mark Mosier, CALEA Regional Program Manager, met

with the PSD Director, the Deputy Directors of Law Enforcement and Administration, and others to answer questions as PSD moves toward accreditation. Deputy Director Renee Sonobe Hong also arranged for HGEA representatives to meet with Mr. Mosier to introduce the union to the CALEA Regional Program Manager, who gave a brief summary to them. The union will be an important stakeholder as policies are written and revised, then forwarded to the union for consultation.

To date the following policies have been consulted with the union and implemented:

LAW.03.02 Special Duty Employment and Voluntary Service (April 20, 2018)

LAW.03.04 Restriction of Police Authority (November 28, 2018)

LAW.01.06 Executive Protection Section (November 28, 2018)

ADM.03.07 Outside Employment (February 22, 2019)

LAW.01.17 Photo ID Cards for Retired Law Enforcement Officers (March 4, 2019)

The following policies, produced by the CALEA work group, are in various stages of being drafted, reviewed, and discussed with subject matter experts before being sent to the union for consultation:

Consular Notification and Access for Foreign Nationals

Naloxone

Oath of Office

Code of Ethics

Legal Authority and Jurisdiction

Strip and Body Cavity Searches

Use of Force

Critical and Fatal Incidents

Gifts and Gratuities

Discrimination and Harassment

Competitive Recruitment

Continuous Recruitment

Non-Competitive Recruitment

Types of Non-Civil Service Appointments

Background Suitability Determination

Organization and Administration

Effecting Changes in Organization

Obey Lawful Orders

Policy Coordination and Control

Department Directive System

Management Control and Assessment System

Complaints and Internal Investigations

Examinations

Performance Evaluations

Early Intervention System

Traffic Enforcement

Special Violator Procedures

Traffic Stops

Detainee Restraint and Ground Transportation

Flying Armed

Motor Vehicle Pursuits

Traffic Citation Maintenance

Abuse of Household Member Involving LEO
Criminal History Record Check
Domestic Violence Incidents Involving Department Personnel
Firearms and Ammunition

Collectively, the 5 policies already implemented and the 36 draft policies meet 56 law enforcement CALEA standards and 30 CALEA Training Academy standards.

You specifically inquired about bike patrol. This included only three (3) bicycles. This limited bike patrol at the airport was discontinued because it was initiated without administration approval, nor the mandatory prerequisite consultation with the union, including a departmental policy, new equipment (bicycles and the prerequisite safety equipment), and a new uniform (bike shorts). It should be noted that when the bike patrol concept was being discussed amongst PSD and the then Department of Transportation (DOT), Airport Division administration in 2015, the consensus was that a regular sheriff foot patrol within all terminals and baggage claim areas was of higher priority than the bike program, again consisting of only three bicycles. PSD shall check with the current DOT Director to determine if DOT would like the bike patrol program to be revived.

On page 2 of your letter, paragraph 1.c, you list specific "policies" from 2014 – 2015 for the Hilo, Kona, and South Kohala Courts, Hawaii Island, Airport Sheriff, and Special Operations. These have not been presented, submitted, formatted, or forwarded to my administration for consideration and consultation with the union. Furthermore, as we continue to draft our department policy to meet the CALEA standards, we would not draft separate departmental policies for each courthouse. For example, we would draft one departmental policy Critical Incidents under Chapter 46. If submitted to me, these drafts may be the basis to draft CALEA compliant policies to be forward for union consultation. Each courthouse section may draft specialized directive or special operating procedures which fall within the parameters of the general departmental policy which addresses the CALEA standard.

I anticipate that it will take at least four years to complete all administrative and law enforcement policies to meet the CALEA standards, including the prerequisite mandatory union consultation on each policy. CALEA accreditation is a lengthy and rigorous process, which requires drafting and revising CALEA compliant, union-consulted policies, substantiating that policies are met by producing documentation or "proofs," and a comprehensive on-site audit. Kauai Police Department is the most recent county police department in our state to receive national CALEA accreditation. In November 2016, the then KPD Police Chief is reported in The Garden Island News as stating, "This recognition is the culmination of nearly nine years of commitment and dedication to this process." Deputy Director Sonobe Hong was fortunate to be invited to join the Hawaii Islands Police Accreditation Coalition, and the department participates in quarterly meetings. This provides the opportunity to draw upon the expertise of the other county police departments for guidance.

Second, you inquired about meetings with the Sheriff, including minutes to be forwarded to the Deputy Director and Director. The last meeting of all Sheriff Division commanders was with Renee Sonobe Hong, when she was the Sheriff, at the end of 2016 in a conference room at the State Capitol. She provided them with lunch to celebrate the

upcoming holidays, and each section commander was allowed to present a briefing of his section. The neighbor islands commanders participated by teleconferencing set up by the House Clerks office. There were no minutes prepared for this meeting. After she was promoted to Deputy Director in January 2017, there have been no such statewide meetings of all Sheriff Division commanders as their immediate line of communication is with the Sheriff. The Sheriff and Narcotics Enforcement Division Administrator, however, are in constant communication with Deputy Director Sonobe Hong, who in turn briefs me on a daily basis. Section commanders may at any time communicate to me through their chain of command.

Third, when any allegations of misconduct are brought to my attention, an internal investigation is conducted by the Civil Rights Compliance Office, the Internal Affairs Office, or the Sheriff Division, depending on the nature of the allegations. Investigative reports are then forwarded to me to determine whether there is sufficient just and proper cause to warrant further review by the department's Inspection and Investigation Office. More serious allegations are investigated by the Internal Affairs Office. All personnel investigations are confidential personnel matters.

You specifically inquired about the Training Division Administrator's work history and other allegations. Once we obtained a confidentiality waiver, you were provided on January 20, 2017 with the complete personnel investigation regarding the Training Division Administrator. After reviewing the documents, you asked that my office retrieve the documents from you, which we did. More recently, you raised these same concerns which were addressed in early 2017. On February 20, 2019, Deputy Director of Administration Maria Cook personally met with you to once again answer all your questions.

Fourth, law enforcement in-service training (LE IST) was minimal when I became Director in January 2015. There was practically no regularly scheduled LE IST in November 2015 before Deputy Director Renee Sonobe Hong (then Sheriff) began demanding and coordinating such training and issuing training orders for deputy sheriffs to attend.

Below is a brief snapshot of the increase in the number of courses held each year, the number of hours of training, and the number of law enforcement officers trained. We note that these numbers may include our nine Narcotics Enforcement Division investigators.

	# of courses	# of Hours Trained	# Trained
FY 15	19	91	67
FY 16	48	1640	1345
FY 17	159	2274	1804
FY 18	192	2778	2274

Note that FY 16/17 includes Transition Training data when we changed our outdated .38 caliber revolvers (for Corrections) and Smith and Wesson 5906 handguns (for Law Enforcement) to a PSD standard issue Sig Sauer P320 semi-automatic handgun.

This data clearly demonstrates that in FY 15, only 19 LE IST classes were scheduled, with the total count of 67 deputies attending those 19 classes. In FY 18, 192 LE IST classes were completed, with a total attendance count of 2,274 law enforcement officers trained. The two charts which are attached reflect the LE IST training improvement since my LE Division management reorganization.

Regular IST classes are continuously scheduled year round. In addition, PSD's law enforcement officers are required to qualify on their department issued firearm once a year (generally scheduled between January – June), and train using their firearm, including night fire, at least once a year (between July – December). The Special Operations Section is allowed additional range days through the year to conduct additional training as their section commander demands.

Fifth, you inquired about long guns and less than lethal weapons. In response to your inquiry about how many patrol rifles are fielded on each island, each island has the following:

Kauai:	1 long rifle; 2 shotguns
Maui:	2 long rifles
Big Island:	3 long rifles; 1 shotgun
Oahu:	13 long rifles; 9 shotguns, of which 2 are less than lethal shotguns

You specifically inquired about long guns deployed to the Capitol Section. While we would not normally release such information for law enforcement operational reasons, and the safety of the legislators and their staff, Governor and Executive staff, and all constituents and visitors, we answer your question by sharing that the Capitol Section has been deployed one rifle and two shotguns.

You further inquired about "approximately 100 [rifles] purchased and are stored in the armory." PSD has purchased ninety six (96) new Sig M400 rifles, which are yet to be deployed statewide to our sheriffs and correctional facilities. As mentioned briefly above, when I first became Director in 2015, I instituted and implemented a plan to change our outdated department .38 caliber revolvers (for Corrections) and Smith and Wesson 5906 semi-automatic handgun to a PSD standard issue Sig Sauer P320 semi-automatic handgun. All deputies and adult correctional officers were qualified on the new handgun in a consistent and systematic weapon qualification schedule over the course of about one year for 331 PSD law enforcement officers and 1,386 adult correctional officers. Upon being trained and qualified in the new Sig Sauer P320, each deputy changed out his/her department issued handgun. Similarly, I will be updating the outdated Colt AR-15 long rifles currently deployed throughout PSD Correctional and Law Enforcement programs, with the purchased Sig M-400 rifles state and system wide in 2019.

You also inquired about tasers. PSD submitted a budget request for tasers and body worn cameras, but it was not approved for the executive budget. At your request, on February 6, 2019, I delivered a copy of the department's Form A for a pilot program for tasers and body worn cameras. On February 7, 2019, your office left a message to confirm that you received the Form A and would call if there were any additional questions. My department would appreciate any legislative appropriation that would allow our law enforcement officers to be equipped with tasers and body worn cameras.

We have been in contact with the Axon representative, and a meeting at our offices has been scheduled this month. Preliminarily, Axon has provided the costs for their most recent Taser 7 model. Axon explains that the better way to look at pricing is subscription based per person (per officer) per month based on a 60 month contract. The cost is \$60 per officer per month for 60 months, and the department would be billed annually.

$1 \text{ unit per deputy} \times \$60 \text{ per month} \times 60 \text{ months} = \$3,600$

We have a total of 321 deputy sheriff positions statewide. If we were to pilot a program only for Capitol Patrol, Airport Section, Warrants/Canine, and Executive Protection posted at Washington Place, this would be 121 deputies, plus 5% (which is 6) for damaged, out of service, and emergency replacements. That's a total of 127 units.

$127 \times \$60 \times 60 = \$457,200$

That said, we would pilot a program based upon funds appropriated. At our upcoming meeting, we intend to pursue all taser models and pricing options, including taser and body worn camera options.

Thank you for the opportunity to provide responses to address your concerns.

Sincerely,



Nolan P. Espinda
Director

attachments

c: The Honorable Ronald D. Kouchi, Senate President

SD Required Training FY13-FY18 Percent Completed Comparison

* Percentage of LEO's current on required training

	FY13	FY14	FY15	FY16	FY17	FY18
ANNUAL REQ	7%	8%	11%	28%	53%	81%
USE OF FORCE	6%	8%	11%	25%	49%	79%
2 YR REQ	3%	6%	10%	22%	29%	61%
3 YR REQ	2%	4%	10%	26%	20%	65%
48-60 Month Req	3%	4%	8%	22%	32%	69%
OVERALL	4%	6%	10%	25%	37%	71%

SD Training Improvement
FY13-18